

- (i) *Centralized Purchasing.* Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the purchasing business segments indicates economies of scale.
- (ii) *Centralized Administrative Functions.* The performance of traditional corporate administrative functions, such as legal services, accounting, tax administration, pension and other employee benefit administration, and financial reporting, in common among the business segments may result in economies of scale. A business segment that secures savings in the performance of corporate administrative services due to its affiliation with other business segments that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market, indicates economies of scale.

IV. EVIDENCE AND PRESUMPTIONS

A. ~~*Presumptions Identified Indicia of Unity.*~~ The presumptions *fact situations* described below ~~will be utilized to assist in determining the scope are considered to indicate the existence~~ of a *single* unitary business. The taxpayer ~~A presumption may rebut be rebutted by clear and cogent evidence that application of the presumption will result in the State taxing extraterritorial values or attributing to the State income that is all out of all appropriate proportions to the business transacted in the State. This proof overcomes the result achieved by the application of any presumption described below.~~ ***The absence of these described conditions does not, however, preclude the finding of a single unitary business based on other indicative conditions.***

1. *Same Type of Business.* Business segments that are in the same general line of business are generally engaged in a single unitary business, as, for example, a multistate grocery operation.
2. *Steps in a Vertical Process.* Business segments that are engaged in different steps in a vertically structured enterprise are almost always engaged in a single unitary business. For example, an enterprise engaged in the exploration, development, extraction, and processing of a natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the enterprise's executive offices.

~~3. *Business Segments within a Single Business Entity.* A single business entity is generally engaged in a single unitary business with respect to the business segments operated within the organization structure of the single business entity. See III.D.5.b.iv., above.~~

~~3.4. *Strong Centralized Management.* Business segments which might otherwise be considered as engaged in more than one unitary business are properly considered as engaged in one unitary business when, for example, there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. For example, some enterprises conducting diverse lines of business may properly be considered as engaged in only one unitary business when the central executive officers are normally involved in the operations of the various business segments and there are centralized offices which perform for the business segments the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing. The absence of these described conditions does not, however, preclude the finding of a unitary business based upon other indicative conditions.~~

B. *Reporting Positions As Evidence.* Inconsistent reporting positions of a business entity may indicate that the business segment's reporting positions regarding the existence or nonexistence of a unitary business are in error.

1. *Inconsistent Reporting Positions in Taxing State.* [The state tax administrator] may rely on the evidence of inconsistent reporting positions in this State from one reporting period to the next to treat business segments as engaged in

a. a **A** unitary business, when the business segments' return or returns previously filed with this State have treated the business segments as a unitary business and the business segments' change in their reporting position will result in a substantial tax benefit not otherwise available, or

b. ~~separate~~ **Separate** businesses, when the business segments' return or returns previously filed with this State have treated the business segments as separate businesses, and the business segments' change in their reporting position will result in a substantial tax benefit not otherwise available.

2. *Inconsistent Treatment between States with Substantially Similar Unitary Standards for the Same Tax Period.* [The state tax administrator] may rely on the evidence of inconsistent reporting positions with respect to the same reporting period in this State and other States with substantially similar unitary business standards to treat business segments as engaged in
- a. a unitary business, when the business segments' reporting position filed with this state have treated the business segments as not in a unitary business, and the business segments' reporting position, for the same taxable period, in another State or States treated the business segments as unitary, or
 - b. separate and distinct businesses, when the business segments' reporting position filed with this State have treated the business segments as unitary, and the business segments reporting position, for the same taxable period, in another State or States treated the business segments as separate and distinct businesses.